

APPENDIX 4—PROCEDURES FOR PROCESSING PROPOSALS FOR LAND USE AUTHORIZATIONS IN AREAS OF SEASONAL RESTRICTION

Upon receipt of an application, the project location is reviewed against the Green River Resource Management Plan (Green River RMP) to determine conformance with the plan and to identify existing resource concerns. Existing National Environmental Policy Act (NEPA) documents relevant to the proposal are gathered to determine whether they are adequate. If existing documents are adequate, a Documentation of Land Use Plan Conformance and NEPA Adequacy (DNA) is prepared (see Instruction Memorandum WO. 2001-062). If documents are deficient or nonexistent, NEPA documentation is prepared as needed using the appropriate format (see BLM NEPA Handbook, H-1790-1). A decision on the application is then issued, consistent with NEPA documentation, as appropriate.

Note: In seasonally crucial wildlife habitat, an approved Application for Permit to Drill (APD) will generally include a seasonal condition of approval (COA) because (1) the APD is valid for 1 year from date of issuance, and Bureau of Land Management (BLM) does not control the startup date for project activity; and (2) field conditions during the crucial period cannot be predicted at the time of APD approval.

If a seasonally restrictive COA is needed because a lease contains no such stipulation, the decision whether to impose the restriction must also consider the reasonableness of the restriction relative to the operator's ability to exercise the benefits of the lease (43 CFR 3101.1-2). The need for a COA must be documented in a site-specific analysis if necessary. This analysis must provide clear and convincing evidence showing that undue and unnecessary degradation would result if the COA were not applied.

PROCEDURES FOR HANDLING REQUESTS FOR EXCEPTION FROM SEASONAL STIPULATIONS AND/OR CONDITIONS OF APPROVAL

A request for exception must be initiated in writing by the operator. When requested concurrently with an application (typical for situations involving lease stipulations), the exception is considered as part of the project proposal in RMP and NEPA compliance review. For separate requests, the request is considered as a unique action and is analyzed and documented individually for RMP and NEPA compliance. In both cases, processing includes coordination with the Wyoming Game and Fish Department (WGFD) for seasonal wildlife-based lease stipulations or permit COAs.

The unpredictability of such factors as weather, and animal movement and condition, precludes analysis of requests related to wildlife far in advance of the time periods in question. Analyses of requests include review of potential mitigation measures and alternatives (traffic restrictions, alternative scheduling, staged activity, etc.). These procedures will be utilized for any request for exception for a surface disturbing or disruptive activity.

The final determination for granting an exception to wildlife stipulations will be a decision by BLM after consultation with WGFD.

CRITERIA FOR CONSIDERING EXCEPTIONS TO SEASONALLY RESTRICTED ACTIVITY

Currently, land use activities within the Rock Springs Field Office Area may be authorized with seasonal restriction(s), No Surface Occupancy requirement, or a distance restriction for sensitive and crucial habitats. Stipulations were developed to provide protection of natural resources. Protective wildlife seasonal stipulations are developed consistent with statewide dates. For example, big game crucial winter ranges are

protected from November 15 to April 30. This restriction is not intended to close an area to development but is in place to protect big game if weather or other habitat needs dictate that closure is necessary.

Over the past few years, the public has received the impression that crucial winter ranges are off limits to any activity. This is true only when conditions dictate. The BLM can and does grant exceptions to seasonal restrictions if the wildlife biologist, in consultation with WGFD, believes that granting an exception will not jeopardize the population being protected. Wildlife biologists use a set of criteria when considering a request for an exception. Professional judgment plays a key role in the BLM biologist's recommendation to the Field Manager to grant or not grant exception(s). There is no clear-cut formula.

Approximately 60 percent of the federal land acres (349,250 acres) in the planning area have no wildlife restrictions. Following are some of the factors considered by the wildlife biologist in determining whether a request for exception should be granted.

Big Game Winter Ranges

The criteria used for crucial big game winter range are that those areas are available; relatively intact; and winter most of the population at its objective, in adequate body condition, 8 or more years out of 10. The most crucial time period for these animals is usually from January 1 to March 15, and this is when the stipulation dates are generally enforced. However, the remaining time frames for the standard statewide stipulation allows the authorizing officer the option of enforcing a longer seasonal restriction if winter conditions warrant.

General Considerations Regarding a Request for Exception

- Are the factors leading to the inclusion of the wildlife seasonal restriction still valid?
- Is the request for an exception from a lease stipulation or is it for relief from a COA on an application?
- What are the dates for the proposed exception/relief?

Criteria to Consider for Granting Exceptions on Winter Ranges

- Animal presence or absence
- Animal condition
- Weather severity
 - a. Snow conditions (depth, crusting, longevity)
 - b. Seasonal weather patterns
 - c. Wind chill factors (indication of animals' energy use)
 - d. Air temperatures and variation
 - e. Duration of condition
 - f. Forecasts (long range for duration of winter)
- Habitat condition and availability
 - a. Animal density (high or low)
 - b. Forage condition (good or poor)
 - c. Competition (livestock and other wildlife)
 - d. Forage availability
 - Amount of forage
 - Snow depth
 - e. Whether livestock use has decreased available winter forage

- f. Whether or not there is suitable and ample forage immediately available and accessible nearby that is not being used
- Site location
 - a. Likelihood of animals habituating to activity
 - b. Presence of thermal cover, wind cover, and other such factors
 - c. Proportion of winter range affected
 - d. Location of site within the winter range
 - e. Whether there is other activity in the area and whether it is likely to increase the cumulative adverse impact
- Timing
 - a. Early in winter season
 - b. Nearing end of winter season
 - c. The kind and duration of disruptive activity expected
 - d. How much remains of the winter when the activity is likely to occur.

General Considerations for Granting Exceptions to Stipulations

Elk

Short-term exceptions are more likely to be considered early (November 15–December 1) and late (April 1–April 30) in the winter season, depending on weather conditions and animal occupancy. Exceptions would not be granted if requested from December 1 to March 1 unless unusually mild winter conditions prevail. Exceptions in elk calving area dates (May 1–June 30) will not be granted because of elk sensitivity to disturbance. Displacement in open habitats is much greater than in woodlots or forests, hence restricted areas will encompass larger areas in open habitat.

Moose

Exceptions will depend on weather conditions and presence of animals. Moose habitat is given protection through riparian and stream buffer zone stipulations (500 feet from live water and riparian habitats).

Antelope

Exceptions will generally be granted except where physical barriers (highways, fences, rivers, canyons, etc.) limit the animals' ability to move into other suitable habitats. In the case of developing oil and gas fields with proposed intensive or disruptive disturbances, BLM and WGFD coordination will be required to ensure that cumulative disturbance and/or range competition with other big game and livestock will not affect herd unit objectives. Exceptions to restrictions will be closely watched during severe winters, when antelope movement is restricted.

Deer

Short-term exceptions may be granted early (November 15–December 1) and late (April 1–April 30), depending on weather conditions and animal occupancy, using the previously discussed criteria. Exceptions can be granted for north slopes, deep snow areas, or other habitats within crucial ranges that preclude use by wintering deer and in which access roads are determined to have little adverse impact.

Raptors

The “no surface occupancy” stipulation of February 1 to July 31 for raptor nests can be shortened depending on the nesting chronology of individual species, nest site location, and topography. Inactive nests can be excepted, as may certain types of short-term, minor disruption land use activities that are not anticipated to affect nesting success.

Greater Sage-Grouse

A “controlled surface use” stipulation will be applied to a one-quarter-mile radius of active greater sage-grouse strutting grounds, including no aboveground facilities (power lines, storage tanks, fences, etc.). Linear disturbances, such as low-traffic roads, pipelines, and seismic activity, could be granted exceptions. From March 1 through May 15, activities would avoid the area within a one-quarter-mile radius of active strutting grounds, from 8 p.m. to 8 a.m. daily. The actual timing of this stipulation can be modified depending on weather conditions, such as fog and cloudy conditions or clear, bright moonlit nights. Seasonal restrictions would be applied from May 15 through July 15 within greater sage-grouse nesting and brood-rearing habitat to protect nesting greater sage-grouse and nesting habitat. Areas not used for nesting can be excepted, provided that actual nesting areas are not affected. Disruptive activities would be prohibited in greater sage-grouse winter range, usually from November 15 through March 15. Exceptions can be granted in winter ranges depending on weather conditions, occupancy by the birds, or conditions that preclude occupancy by the birds.

Other

Other seasonal restrictions for other species, such as mountain plover and greater sage-grouse winter concentrations, may be identified on a case-by-case basis. Should additional seasonal restrictions be identified, exceptions would also be handled on a case-by-case basis and include a site-specific analysis.